

Newton, Iowa Code of Ordinances

CHAPTER 157: AIRPORTS

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§ 157.01 PURPOSE AND OBJECTIVES.

(A) This chapter is adopted pursuant to the authority conferred by Iowa Code Ch. 329.3. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Newton Municipal Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Newton Municipal Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of the Newton Municipal Airport and the public investment therein.

(B) Accordingly, it is declared:

(1) The creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Newton Municipal Airport;

(2) It is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and

(3) The prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

(4) It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

(C) This chapter shall be known and may be cited as the “Airport Height Regulations and Use of Property in Vicinity Ordinance”.

(2011 Code, § 53.0101)

§ 157.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIRPORT. Newton Municipal Airport.

AIRPORT ELEVATION. The highest point of an airport’s usable landing area measured in feet from seal level.

APPROACH SURFACE. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in § 157.03 of this chapter. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES. These zones are set forth in § 157.03 of this chapter.

BOARD OF ADJUSTMENT. A Board consisting of five members appointed by the City Council as provided in Iowa Code Ch. 329.1.

CONICAL SURFACE. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

HAZARD TO AIR NAVIGATION. An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

HEIGHT. For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE. A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

NON-CONFORMING USE. Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.

NON-PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

OBSTRUCTION. Any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in § 157.03 of this chapter.

PERSON. An individual, firm, partnership, corporation, company, association, joint stock association or governmental entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.

PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS), or a precision approach radar (PAR). It also means a precision approach system is planned and is so indicated by an FAA approved airport layout plan or any other FAA planning document.

PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially

prepared hard surface, the **PRIMARY SURFACE** extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the **PRIMARY SURFACE** is set forth in § 157.03 of this chapter. The elevation of any point on the **PRIMARY SURFACE** is the same as the elevation of the nearest point on the runway centerline.

RUNWAY. A defined area on an airport prepared for landing and take-off of aircraft along its length.

STRUCTURE. An object, including a mobile object constructed or installed by humans, including, but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

TRANSITIONAL SURFACES. These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

TREE. Any object of natural growth.

UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures.

(2011 Code, § 53.0102)

§ 157.03 AIRPORT SURFACES AND HEIGHT LIMITATIONS.

(A) In order to carry out the provisions of this chapter there are hereby created and established certain surfaces which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Newton Municipal Airport. Such zones are shown on the Newton Municipal Airport Zoning Map which is attached to this Chapter and made a part hereof. An area located in more than one of the following surfaces is considered to be in only the zone with the more restrictive height limitation. Except as otherwise provided in this chapter, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any surface created by this chapter to a height in excess of the applicable height limit herein established for such surface.

(B) The various surfaces and such height limitations are hereby established and defined as follows.

(1) *Horizontal surface.* The horizontal surface is a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 10,000 feet radii from the center of the end of the primary surface on each end of runway 14/32 and connecting the adjacent arcs by lines tangent to those arcs.

(2) *Conical surface.* The conical surface extends outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

(3) *Primary surface.* The primary surface is a surface longitudinally centered on a runway and extends 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 250 feet for runway 5/23 and the width is 1,000 feet on runway 14/32.

(4) *Approach surface.* The approach surface is a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and expands uniformly to a width of 1,250

feet for runway ends 5 and 23; 4,000 feet for runway end 14; and 16,000 feet for runway end 32. The approach surface extends for a horizontal distance of 5,000 at a slope of 20:1 for runway ends 5 and 23; 10,000 feet at a slope of 34:1 for runway end 14; and 10,000 feet at a slope of 50:1 with an additional 40,000 feet at a slope of 40:1 for runway end 32.

(5) *Transitional surface.* The transitional surface extends outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portion of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

(2011 Code, § 53.0103)

§ 157.04 USE RESTRICTIONS.

Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

(2011 Code, § 53.0104)

§ 157.05 NON-CONFORMING USES

(A) *Regulations not retroactive.* The regulations prescribed by this chapter shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter, or otherwise interfere with the continuance of non-conforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this chapter and is diligently prosecuted.

(B) *Marking and lighting.* Notwithstanding division (A) above, the owner of any existing non-conforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the City Planner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the city.

(2011 Code, § 53.0105)

§ 157.06 PERMITS.

(A) *Future uses.*

(1) Except as specifically provided in divisions (A)(1)(a), (A)(1)(b) and (A)(1)(c) below, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be

granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with division (D) below.

(a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(b) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

(c) In the area lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.

(2) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this chapter, except as set forth in division (D) below.

(B) *Existing uses.* No permit shall be granted that would allow the establishment or creation of an obstruction or permit a non-conforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(C) *Non-conforming uses abandoned or destroyed.* Whenever the City Planner determines that a non-conforming tree or structure has been abandoned or more than 80% torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(D) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this chapter, may apply to the Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this chapter. Additionally, no application for variance to the requirements of this chapter may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Newton City Planner for advice as to the aeronautical effects of the variance. If the City Planner does not respond to the application within 15 days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

(E) *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the city, at its own expense, to install, operate and maintain the necessary markings and lights.

(2011 Code, § 53.0106)

§ 157.07 ENFORCEMENT.

It shall be the duty of the City Planner to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the City Planner upon a form published for that purpose. Applications required by this chapter to be submitted to the City Planner shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the City Planner.

(2011 Code, § 53.0107)

§ 157.08 BOARD OF ADJUSTMENT.

(A) It is hereby ordered that the City Zoning Board of Adjustment shall have and exercise the following powers:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by the City Planner in the enforcement of this chapter;
- (2) To hear and decide special exceptions to the terms of this chapter upon which such Board of Adjustment under such regulations may be required to pass; and
- (3) To hear and decide specific variances.

(B) The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this chapter.

(C) The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the City Planner or decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect variation to this chapter.

(2011 Code, § 53.0108)

§ 157.09 APPEALS.

(A) Any person aggrieved, or any taxpayer affected, by any decision of the City Planner made in the administration of the chapter, may appeal to the Board of Adjustment.

(B) (1) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the City Planner a notice of appeal specifying the ground thereof.

(2) The City Planner shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(C) (1) An appeal shall stay all proceedings in furtherance of the action appealed from unless the City Planner certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the City Planner cause imminent peril to life or property.

(2) In such case, proceedings shall not be stayed, except by the order of the Board of Adjustment on notice to the City Planner and on due cause shown.

(D) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

(E) The Board of Adjustment may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances.

(2011 Code, § 53.0109)

§ 157.10 JUDICIAL REVIEW.

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the court of record as provided in Iowa Code § 414.5.

(2011 Code, § 53.0110)

§ 157.99 PENALTY.

Each violation of this chapter or of any regulation, order or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than \$250 or imprisonment for not more than ten days or both; and each day a violation continues to exist shall constitute a separate offense.

(2011 Code, § 53.0111)